

Exhibit 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE STATE OF NEW YORK and THE CITY OF
NEW YORK,

Plaintiffs,

Case No. 1:15-cv-1136-KBF

v.

UNITED PARCEL SERVICE, INC.,

**AFFIDAVIT OF
DR. SONIA ANGELL**

Defendant.

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STATE OF NEW YORK)
) :ss.
COUNTY OF NEW YORK)

Dr. Sonia Angell, being duly sworn, deposes and says:

1. I am the Deputy Commissioner of the Division of Prevention and Primary Care, New York City Department of Health and Mental Hygiene.
2. I graduated from medical school at the University of California in San Francisco, completed my internal medicine residency at Brigham and Women's Hospital in Boston, and completed a fellowship at the Robert Wood Johnson Foundation Clinical Scholars program at the University of Michigan, where I also received my Master of Public Health.
3. I oversee the Division of Prevention and Primary Care, which includes the Bureau of Chronic Disease Prevention and Tobacco Control.
4. Cigarette smoking is the single leading cause of preventable death in the United States, killing over 480,000 people each year. U.S. Dept. of Health and Human Services, *The Health Consequences of Smoking, A Report of the Surgeon General* ("Surgeon Gen.

Rept.”), at 11, 678 (2014), *available* at U.S. Dept. of Health & Human Services, Reports & Publications, Surgeon General’s Reports, <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/>.

5. In New York State, tobacco use kills approximately 28,200 New Yorkers each year¹—a figure that well exceeds the number of deaths caused by alcohol, motor vehicle accidents, firearms, toxic agents, and unsafe sexual behaviors, combined.²
6. For the millions more living with a smoking-related disease, the health care costs are substantial. Surgeon Gen. Rept., at 11, 678.
7. Each year, tobacco-related health care costs New Yorkers \$10.4 billion. N.Y.S. Dept. of Health, Smoking and Tobacco Use – Cigarettes and Other Tobacco Products (last revised Nov. 2015), *available* at https://www.health.ny.gov/prevention/tobacco_control/; *see also* RTI International, 2012 Independent Evaluation Report of the New York Tobacco Control Program, at 50 (2012) (estimating that New Yorkers spent roughly \$10 billion annually on such costs).
8. My division constantly reviews policies that would be appropriate to address reducing tobacco use and protecting public health in New York City, which has historically included a five-point approach focusing on evidence-based activities to reduce tobacco use.
9. The five-point approach is comprised of taxation, legislation, cessation, education and evaluation.

¹ Centers for Disease Control and Prevention, Best Practices for Comprehensive Tobacco Control Programs—2014, at 110, *available* at http://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf.

² N.Y.S. Dep’t of Health, Bureau of Tobacco Control, StatShot Vo. 8, No. 3, *Tobacco is the Leading Cause of Preventable Death* (Apr. 2015), *available* at https://www.health.ny.gov/prevention/tobacco_control/reports/statshots/volume8/n3_tobacco_leading_cause.pdf.

10. There is a strong body of evidence, especially for cigarette use, that shows that tobacco users are price-sensitive, and higher taxes on tobacco products decrease the demand for the affected products, thereby improving public health in both adults and in youth, both by a reduction in prevalence, the proportion of adults who are smoking, and a reduction in the amount of cigarettes consumed. Surgeon Gen. Rept. at 788.
11. In fact, raising cigarette prices “is one of the most effective interventions to prevent and reduce cigarette use.” RTI International, 2011 Independent Evaluation Report of the New York Tobacco Control Program, at 40 (2011) (citation omitted); *see also* Institute of Medicine, Ending the Tobacco Problem: A Blueprint for the Nation, at 182 (2007); U.S. Dept. of Health and Human Services, How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease, A Report of the Surgeon General, at 654 (2010) (noting that “increases in the price of cigarettes through excise taxes ... are an effective policy intervention to prevent smoking initiation among adolescents and young adults, reduce cigarette consumption, and increase the number of smokers who quit”).
12. For example, a ten-percent increase in cigarette price is estimated to reduce cigarette use among adults by approximately three to five percent. Frank J. Chaloupka & Rosalie Liccardo Pecula, *The Impact of Price on Youth Tobacco Use*, National Cancer Institute Monograph No. 14, at 194 (Nov. 2001).³ The response of youths to price increases is even greater; a similar ten-percent price increase is estimated to reduce the number of youth smokers by at least six or seven percent. *See Prevent All Cigarette Trafficking Act of 2007, and the Smuggled Tobacco Prevention Act of 2008: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the H. Comm. on the*

³ Available at http://cancercontrol.cancer.gov/tcrb/monographs/14/m14_12.pdf (last visited May 1, 2015).

Judiciary, Serial No. 110-47, 52 (May 1, 2008) (Statement of Matthew L. Myers, President, Campaign for Tobacco-Free Kids).

13. The State and City of New York—like the federal government, 49 other states, and District of Columbia—tax the sale and use of tobacco products, such as cigarettes. *See* N.Y. Tax Law § 470 *et seq.*; N.Y.C. Ad. Code (“Ad. Code”) § 11-1302(a)(1); Surgeon Gen. Rept., at 788.
14. The federal cigarette tax is \$1.01 per pack of cigarettes (\$10.10 per carton).
15. States and localities establish their own cigarette tax rates so that tax rates vary among jurisdictions. *See, e.g.*, N.Y. Tax Law § 471(1); 20 N.Y. Codes R. & Regs. § 74.1(a)(2).
16. The State and City of New York have each imposed a separate excise tax on packages (or “packs”) of cigarettes (with certain exceptions not relevant here) that are possessed for sale or use within the State or City. *See* N.Y. Tax L. §§ 471, 471-a; Ad. Code § 11-1302(a)(1) and (2).⁴ Since July 1, 2010, the New York State cigarette tax has been \$4.35 per pack (\$43.50 per carton). In contrast, the excise tax imposed by the State of Virginia for cigarettes sold there is only \$0.30 per pack (\$3.00 per carton). Code of Virginia §58.1-1000 *et seq.*
17. The New York City cigarette tax is \$1.50 per pack (\$15.00 per carton).
18. The revenue generated by such taxes is dwarfed by the actual health care costs associated with tobacco-related illnesses spent by New Yorkers.⁵

⁴ The “use” of cigarettes is “any exercise of a right or power, actual or constructive, including but not limited to receipt, storage or any keeping or retention for any length of time.” N.Y. Tax L. § 471-a; Ad. Code § 11-1301(4).

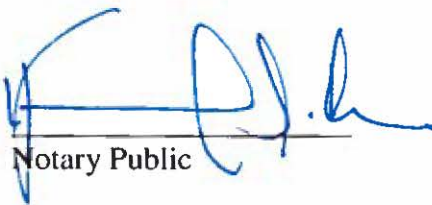
⁵ Compare N.Y.S. Sen. Maj., Fin. Comm., Economic and Revenue Review (for FY 2016), at 7, 8 (Feb. 2015) (identifying roughly \$1.3 billion in collected cigarette and tobacco taxes), *available at* N.Y.S. Senate, 2015–16 N.Y.S. Budget, https://www.nysenate.gov/sites/default/files/articles/attachments/Rev_Forecast_FY_16.pdf, with N.Y.S. Dept. of Health, Smoking and Tobacco Use – Cigarettes and Other Tobacco Products (identifying \$10.4 billion spent by New Yorkers on tobacco-related health care costs; last revised Mar. 2016), *available at* https://www.health.ny.gov/prevention/tobacco_control/.

19. As different levels of state taxation have widened, tax avoidance and evasion practices have increased. Surgeon Gen. Rept. at 791. These practices include “cross-border, Internet, and untaxed purchases on tribal lands”; bootlegging from low tax jurisdictions for resale in high tax jurisdictions; and large-scale organized smuggling. *Id.*
20. In whatever form, these illegal trade practices hurt public health by thwarting the taxation scheme and thereby increasing smoking and the related health impacts. *See* Surgeon Gen. Rept. at 791; *see also* N.Y. Pub. Health Law § 1399-ll (“Legislative Findings”).⁶



Sonia Angell

Sworn to before me this
17th day of AUGUST 2016


Notary Public

Harinderpal Singh Rana
Notary Public - State of New York
Richmond County
Reg. No. 02RA5076491
Commission expires April 21, 2019

⁶ *See also* 2000 N.Y. S.N. 8177, § 1 (enacted Aug. 16, 2000) (“The legislature finds and declares that the shipment of cigarettes sold via the internet or by telephone or by mail order to residents of this state poses a serious threat to public health, safety, and welfare, to the funding of health care pursuant to the health care reform act of 2000, and to the economy of the state. The legislature also finds that when cigarettes are shipped directly to a consumer, adequate proof that the purchaser is of legal age cannot be obtained by the vendor, which enables minors to avoid the provisions of article 13-F of the public health law. ... The legislature further finds that existing penalties for cigarette bootlegging are inadequate. Therefore, the bill enhances existing penalties for possession of unstamped or unlawfully stamped cigarettes.”).

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Commission Expires April 21, 2017
Reg. No. 036A5034101
Westchester County
Notary Public - State of New York
Hermann, Daniel